IN THE

United States Court of Appeals

FOR THE NINTH CIRCUIT

WALTER D. ACKERMAN, JR., individually and as Attorney General of the Territory of Hawaii, and JEAN LANE, individually and as Chief of Police of the County of Maui, *Appellants,* vs. INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION, a voluntary unincorporated association and labor union, et al., *Appellees.*	No. 12300
WALTER D. ACKERMAN, JR., individually and as Attorney General of the Territory of Hawaii, *Appellant,* vs. INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION, a voluntary unincorporated association and labor union, et al., *Appellees.*	No. 12301

Upon Appeal from the United States District Court for the Territory of Hawaii

APPELLEES' PETITION FOR REHEARING

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APPELLEES' PETITION FOR REHEARING

Appellees respectfully request the Court to reconsider its decision entered herein on February 28,

1951,[1] and to grant appellees a rehearing in this case on the following grounds:

I

THE COURT'S DECISION IS IN CONFLICT WITH THE DECISION OF THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT IN *Cooper v. Hutchinson*, DECIDED JULY 1950, AND WITH THE PROVISIONS OF SECTION 1797 OF THE CIVIL RIGHTS ACT OF MARCH 1, 1875, AS INTERPRETED BY THE UNITED STATES SUPREME COURT.

The Civil Rights Act and Injunctive Relief

Section 1797 of the Civil Rights Act of March 1, 1875, 8 U.S.C.A., Section 43, provides as follows:

> Every person who, under color of any statute, ordinance, regulation, custom or usage, of any state or territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

On its face, this section authorizes *injunctive* relief in that class of cases in which, under color of state or territorial law, persons are deprived of rights, privileges or immunities secured by the Constitution and laws of the United States.

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[1] Extension of time to April 25, 1951, granted by Court to file petition for rehearing.

Section 1797 of the Civil Rights Act, expressly authorizing the granting of injunctive relief in cases within its scope, is a statutory exception within the provisions of Section 2283 of Title 28. The United States Supreme Court by inference effectively so held in *Hague v. C.I.O.,* 307 U.S. 496.[2] Recently, the United States Court of Appeals for the Third Circuit, in *Cooper v. Hutchinson,* 184 F.(2d) 119, succinctly so held in a case involving the question of the stay of further proceedings in a criminal prosecution in the state of New Jersey. That court said:

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[2] This Court found a distinction on the facts between the *Hague* case and this case, saying that in the *Hague* case it appeared that plaintiffs, seeking to hold peaceful meetings and to distribute literature, were threatened with arrest under the void Jersey City ordinance and their associates had been arrested and carried out of the city. The same pattern of deprivation of rights and abuse of authority under color of law was shown in these cases. It was shown that a number of persons of the class on behalf of whom the action was brought had been arrested under the void statutes, that after the termination of the strike in question, the charges against them had been dropped for lack of evidence; that persons not even present were arrested, held and indicted; that a person whom the police thought was not a union member was released upon that sole ground; that the pineapple strike had been broken by the mass arrests under the 20-year felony statute; that the harsh and discriminatory treatment by law enforcement officers accorded the members of the union by the continued selection of the unlawful assembly and riot statute had forced the members of the union employed as longshoremen to refrain from striking, because of the pattern and policy of abuse shown in past labor disputes.

The Court also distinguished the *Hague* case from the instant case by stressing that the conduct of all the plaintiffs in that case was lawful. The commission of a criminal offense does not bar relief under the Civil Rights Act for deprivation of constitutional rights suffered in the process. A person guilty of murder is entitled to the full benefit of his constitutional rights. Surely a minor infraction of the criminal law does not absolve the officers of a state or territory from the observance of the Constitution.

But appellants say that their right to assert a claim under Section 1 of the Civil Rights Act of 1871 is not dependent upon the prior pursuit of relief under state law. That is correct. *Lane v. Wilson,* 1939, 307 U.S. 268, 274-275, 59 S. Ct. 872, 83 L.Ed. 1281. We are not here governed by the rule of the habeas corpus cases to the effect that the state law processes must be exhausted before there can be resort to a federal court. And the provision in the Judicial Code forbidding the use of the injunction against state court action has a stated exception when a federal statute allows it, as it does here.[11]

[11] 28 U.S.C.A. § 2283 (1946 Supp. III): "A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments." The Civil Rights Act provision relied upon here expressly provides for a "suit in equity" by the aggrieved party. Rev. Stat. § 1979 (1875), 8 U.S.C.A. § 43.

The Relief Sought and Granted Involves More Than Pending Criminal Prosecutions

This Court found it unnecessary to decide whether the District Court was prohibited from granting injunctions in these cases by Section 2283 of Title 28, and bottomed its decision on its ruling "that equity jurisdiction does not extend to enjoining pending criminal prosecutions."

This ruling was predicated on the Court's conclusion that the appellees sought and the District Court granted relief only against pending criminal prosecutions, and hence that the relief does not sound in the

future. This is not correct. The complaint sought declaratory relief, and the evidence introduced and the facts found showed a pattern and policy of violations of the rights under criminal prosecutions both past and present, and a continuous threat of deprivation of rights if appellees sought to use their constitutional and federally protected right to strike and to engage in picketing activities.

The decree of the District Court shows that the relief granted was more than relief against pending prosecutions. Thus, paragraph 10 of the District Court's decree of March 29, 1949, declared the unlawful assembly and riot act void as unconstitutional (R. 548). Paragraph 11 restrained the persons bound by the decree and their successors in office from proceeding with the prosecution commenced on July 16, 1947 against certain named plaintiffs, under any complaint or indictment based on the unlawful assembly and riot statute. Paragraphs 12 and 13 contained similar provisions with respect to other plaintiffs. At the time the decree was entered, there were no indictments pending in the courts of the Territory against the plaintiffs in No. 12,300, and the indictment No. 2365 in No. 12,301 was held void because of the manner in which the grand jury was constituted. Under the federal Constitution, as well as under Territorial law, these plaintiffs could not be prosecuted for a felony except by indictment. Not only do the complaint and the decree of the court show that the scope of the relief sought was more

than against pending criminal prosecutions, but the proof tendered and the findings of the court indicate that the subject matter of the controversy involved more than pending prosecutions.

The United States Supreme Court, in *Arthur St. John v. Wisconsin Employment Relations Board,* 95 L.Ed. Adv. Sheets 398, 400, described the same sort of relief sought here as "injunctive and declaratory relief looking to the future."

The declaratory and injunctive relief granted by the District Court as to the unconstitutionality of the statutes and as to the violation of appellees' right to a fair and impartial grand jury selected in accordance with constitutional principles enunciated and clearly defined by the United States Supreme Court, is the same kind of declaratory relief granted by the United States Court of Appeals for the Fifth Circuit in *City of Birmingham v. Monk,* 185 F.(2d) 259. Indeed, in the instant cases, as in the *Monk* case, the challenged laws were found to be void under decisions of the U. S. Supreme Court.

In the *Monk* case, the court said:

> . . . It is true, as urged by appellants, that the State and its municipalities in the exercise of those police powers that were reserved at the time of the adoption of the Constitution has wide discretion in determining its own public policy and what means are necessary for its own protection and properly to promote the safety, peace, public health, convenience and good

> order of its people. But it is equally true that the police power, however broad and extensive, is not above the Constitution. When it speaks its voice must be heeded and it is the obligation of this court so to declare. But we need not labor the point for the precise question presented here is foreclosed by the decisions of the courts, both Federal and State. (Citing cases.)

If the decrees of the District Court had, on the basis of the facts found and its determinations of law, granted only declaratory relief, the result would have been the same,[3] as the territorial courts would have been bound by the determination of federal law in a civil rights case of which the District Court has original jurisdiction.

Under Civil Rights Act, District Court Had Jurisdiction to Enjoin Pending Prosecutions

Should this Court, however, remain firm in its conviction that the relief sought and granted extends only to pending prosecutions, nevertheless the Civil Rights Act confers power on the District Court, where exceptional circumstances exist and irreparable injury is found, to enjoin pending criminal prosecutions.

It is impossible, as this Court sought to do, to separate the generally stated rule against enjoining

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[3] The Supreme Court in effect so held even in *Ex Parte Young*, 209 U.S. 123, and *Cline v. Frink Dairy Co.*, 274 U.S. 445, which were not suits brought under the Civil Rights Act and in which therefore Section 379 of the old Judicial Code by its terms prohibits staying state court proceedings.

pending criminal prosecutions, and Section 2283, of the New Judicial Code, formerly Section 379 of Title 28. The prohibition of this section has been a part of the Judicial Code since the creation of courts of the United States. It has been said that the distinction drawn by federal courts between threatened and pending criminal prosecutions arose in order to evade a direct collision with the language of the prohibition on the theory that prosecutions merely threatened and not yet brought were not "state court proceedings" within the meaning of the prohibition of the statute.[4]

The language of the present Section 2283 excepts from its scope injunctions "expressly authorized by Act of Congress." It was modified to restore the law as it existed prior to *Toucey v. New York Life Ins. Co.*, 314 U.S. 118, and to obviate any conflict with statutes providing specifically for injunctive relief.[5]

The cases cited by this Court in support of its holding that there are no exceptions to the rule that equity jurisdiction does not extend to enjoining pending criminal prosecutions were not brought under the Civil Rights Act.

No discussion of a distinction between threatened and pending criminal prosecutions appears in any civil rights case because the Civil Rights Act is a statutory exception to Section 2287 of Title 28, en-

[4] Encyclopedia of Federal Procedure, Vol. 13, Sec. 6559, Sec. 6675.

[5] Moore's Commentary on the U.S. Judicial Code, 1949, Sec. .03 (49), page 395 (ff).

grafted by Congress years after the original enactment of the prohibition. In civil rights cases, the question is solely that of the propriety of the exercise of jurisdiction, and this turns on the existence of exceptional circumstances and irreparable injury. *Douglas v. Jeannette,* 319 U.S. 157.

Thus, in that case, the Supreme Court said:

> . . . Hence the arrest of the federal courts of the processes of the criminal law within the states and the determination of questions of criminal liability under state law by a federal court of equity are to be supported only on a showing of danger of irreparable injury "both great and immediate."

One of the reasons the court gave for withholding the equitable hand of the court was that the lawfulness or constitutionality of the statute or ordinance upon which prosecution is based may be determined as readily in the criminal case as in a suit for an injunction. In these cases, obviously the legal remedy is not as complete and efficient as equity can afford. See *Terrace v. Thompson,* 263 U.S. 197. It was shown that the appellees had tested every issue of law, including the constitutionality of the unlawful assembly and riot act and the legality of the grand jury, in the courts of the Territory, and had been denied their rights. Since the test of the constitutionality occurred in a statutory interlocutory appeal to the Supreme Court of the Territory, from which

no appeal lies to this Court, the plaintiffs were bound by the law of the case established by the Supreme Court in *Territory v. Kaholokula,* 37 Haw. 625, and could not again raise the question successfully until an appeal finally reached this Court. That the legal remedy was not as speedy and efficient as that which equity affords is therefore clear.

In *Douglas v. Jeannette,* the reason the Supreme Court stayed its hand was that the statute attacked as unconstitutional had on the same day been declared unconstitutional. The court had no cause to believe that the courts of the Commonwealth of Pennsylvania would refuse to abide by the ruling of the court. That this is the proper interpretation of the court's decision appears from *St. John v. Wisconsin Employment Relations Board,* 95 L.Ed. Adv. Sheets 398, where an exactly similar situation arose. On the same day that the Supreme Court decided this case, in *Amalgamated Association of Street, Electric Railway and Motor Coach Employees of America, Division 998 v. Wisconsin Employment Relations Board,* 95 L.Ed. Adv. Sheets 383, it held unconstitutional as in conflict with the National Labor Relations Act, the Wisconsin state statute prohibiting strikes against public utilities. The court therefore denied injunctive and declaratory relief in the *St. John* case against the enforcement of the statute in the future, saying:

> In view of today's decision in Nos. 329 and 438, ante, the later case involving the very parties to this action, "we find no ground for supposing

> that the intervention of a federal court in order to secure appellants' constitutional rights will be either necessary or appropriate."
> *Douglas v. Jeannette,* 319 U.S. 157, 165.[6]

In *Cooper v. Hutchinson,* supra, where a stay of pending state court criminal action was sought under the Civil Rights Act, in order to secure the constitutional right to counsel of the defendants' choice, the Circuit Court of Appeals, after examining the facts, declared the extent and scope of the defendants' rights to counsel, but withheld injunctive relief to afford the state of New Jersey, in accord with its opinion, an opportunity to remedy the deprivation *on interlocutory appeal.* The court said:

> We think the ends of justice in this case will be best preserved by the following action: We shall vacate the judgment of the trial court and remand this case to the District Court for the District of New Jersey. We shall instruct the trial court to retain jurisdiction in this suit for an injunction pending *interlocutory determination,* by New Jersey courts, of the appellants' rights to the professional services of their lawyers who were admitted to handle their cases and whose representation, it is alleged, was summarily cut off. If the appellants' allegations are true, we have little doubt that the New Jersey courts, if not the defendant himself, will rectify

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[6] The facts appearing in these cases are analogous to the facts in the instant case. The appellants in those actions showed that by the use of the statute as well as punishment for criminal contempt under the statute, they had been denied the right to strike given by the federal Labor Management Relations Act.

this deprivation of constitutional rights once the situation has been brought to their attention. In that event, this proceeding may be dismissed as moot. (Italics supplied.)

In these cases, the Supreme Court of the Territory had by interlocutory appeal passed on the issue of constitutionality of the unlawful assembly act, and had failed to accord relief from the deprivation of rights complained of.

Rule of Removal Cases Inapplicable to Suits Under Civil Rights Act

The removal cases, such as *Kentucky v. Powers,* 201 U. S. 1, are not applicable nor is the same strict test required where United States district courts are given original jurisdiction as in Section 43 of Title 8, and Section 1343 of the New Judicial Code.[7]

A Cause of Action Under the Civil Rights Act Was Made Out Within Principles Defined In *Screws v. United States*

In *Screws v. United States,* 325 U. S. 91, in upholding the criminal conspiracy section of the Civil Rights Act—which is in *pari materia*[8] with the section affording civil relief—the Supreme Court said that "to deprive a person of a right which has been made specific either by express terms of the Constitu-

[7] *Screws v. U. S.,* 325 U.S. 91, 65 S. Ct. 1031, 89 L.Ed. 1495. Moore's Commentary on the United States Judicial Code, 1949, Section .03 (39), pages 257-258.

[8] *McShane v. Maldoven,* 179 F. (2d) 1016, 1020 (C.C.A. 6); *Picking v. Pennsylvania R.R.,* 151 F. (2d) 240 (C.C.A. 3), cert. den. 332 U.S. 776.

tion or laws of the United States or by decisions" of the Supreme Court interpreting them supplied the specific intent necessary to constitute wilful deprivation of rights. A local officer, the Court said, who persists in enforcing a type of ordinance which the Supreme Court has held invalid as violative of the guarantees of free speech or freedom of worship, or a local official who continues to select juries in a manner which flies in the teeth of decisions of the Supreme Court knows exactly what he is doing.

> He violates the statute not merely because he has a bad purpose, but because he acts in defiance of announced rules of law. He who defies a decision interpreting the constitution knows precisely what he is doing.

Appellees showed that the unlawful assembly and riot act of the Territory parallels in every respect, except the death penalty, the Riot Act of George the First, which the Supreme Court in *Bridges v. California,* 314 U. S. 252, specifically cited as a measure which the Bill of Rights prohibited the American Congress from passing.

The conspiracy act on its face falls clearly within that type of vague and indefinite statute which the Supreme Court struck down in *United States v. L. Cohen Grocery Co.,* 255 U. S. 81, on the ground that

> to attempt to enforce the section would be the exact equivalent of an effort to carry out a statute which in terms merely penalized and punished all acts detrimental to the public in-

terest when unjust and unreasonable in the estimation of the court and jury.

Appellees met with exactitude the quantum of proof held sufficient to show a deliberate and substantial exclusion from the grand jury list of persons on account of race, in a long line of cases from *Strauder v. West Virginia,* 100 U. S. 303, through *Patton v. Mississippi,* 332 U. S. 463, and as to exclusion of wage earners, the test laid down in *Thiel v. Southern Pacific Co.,* 328 U. S. 217. Appellees showed that the 1947 grand jury was illegally composed within the principles laid down in *Fay v. New York,* 332 U. S. 261.

These specific decisions and matters had been presented to the Territorial courts, which had refused to give them effect.

It is respectfully submitted that the Court in holding that the court did not have jurisdiction to grant the injunctions and that the suits should be dismissed emasculates the Civil Rights Act and denies appellees of the remedy to which they are entitled under that Act, and conflicts with the decisions of other circuits and of the Supreme Court cited above.

II

ON THE RECORD IN THESE CASES, THE COURT ERRED IN SETTING ASIDE THE DISTRICT COURT'S FINDINGS OF FACT IN RESPECT TO EXCEPTIONAL CIRCUMSTANCES AND IRREPARABLE INJURY FOR THE REASON THAT THESE FINDINGS ARE SUPPORTED BY SUBSTANTIAL EVIDENCE.

Power of This Court on Findings of Fact

It is well settled that under Rule 52(a) of the Federal Rules of Civil Procedure, 28 U.S.C.A., that this Court cannot set aside the trial court's findings of fact unless the findings are so lacking in evidentiary support as to be clearly erroneous. This principle was recently stated by the United States Court of Appeals for the Eighth Circuit in *U. S. Cartridge Co. v. Powell,* 185 F.(2d) 67, as follows:

> From all of the evidence on the subject, it is not unlikely that we, sitting as a trial court, might have reached a different conclusion than the trial court reached on the propriety of the classification of these plaintiffs, but as we have repeatedly pointed out above and repeatedly held in reported cases, by the express direction of the Rules of Civil Procedure, 28 U.S.C.A., we may not set aside a finding of fact of a trial court unless that finding is so lacking in evidentiary support as to be clearly erroneous. In this instance we find sufficient conflicting inferences which may be drawn from the evidence to preclude us from holding that the trial court's finding was clearly erroneous.

See also *Imperial Assurance Co. v. Supornick,* 184 F.(2d) 930; *Fanish v. Fanish,* 195 F.(2d) 425.

The Findings as to Irreparable Injury Are Supported by Substantial Evidence

This Court first rejected the District Court's finding of irreparable injury that "all collective bargaining in the Territory of Hawaii is substantially affected by the two statutes as well as the prosecutions conducted or about to be carried on thereunder," and the analogy the District Court drew to the facts held by the United States Supreme Court in *AFL v. Watson,* 327 U. S. 582, to make out a showing of irreparable injury.

The findings of the trial court in respect to the facts concerning the incidents out of which the complaint of deprivation of constitutional rights arose are unique in that the District Court in every instance of disputed facts accepted appellants' version of the facts. In other words, construing every fact and circumstance concerning these incidents against appellees, the court found appellees entitled to relief. In support of its finding of irreparable injury, it found in part:

> That the union has spent in excess of one-third of a million dollars in Hawaii since 1944 in organizing 30,000 workers in the sugar, pineapple and other industries; that large sums of money are spent monthly in the administration and servicing of the locals; that the money is

contributed by the members through monthly dues.

That the purpose of the union is to improve the wages, hours and working conditions of its members in these industries; that the union and its members have no way of achieving their objectives except by striking, if collective bargaining and voluntary mediation fails to settle disputes because the employers of the members of the appellee union all refuse to submit contract issues involving wages to arbitration.

That wages for common labor had been increased from $1.84 a day, fixed by the federal government in 1943, to which a 15% bonus was added, to in excess of eight dollars a day under existing union contracts.

That the fear generated by the mass arrests made by appellants under color of the unlawful assembly and riot statutes against the individual appellees in these cases for minor disturbances on picket lines has seriously weakened the ability of the union to strike.

That mass arrests during the pineapple strike, under color of these statutes, for picket line disturbances broke the strike and demoralized many of the workers, who left the union; that after the strike, membership on the island of Lanai, where the mass arrests occurred, dropped from 1300 to 800.

That the unlawful assembly and riot acts substantially affected the course of labor-management relations in Hawaii as the union felt it would be suicide to strike for higher wages in the face of the consistent established

use of the 20-year felony of unlawful assembly and riot for minor disturbances on picket lines.

That during the sugar strike, 21 members of the union were charged with and indicted for unlawful assembly and conspiracy; that the charges were dropped two months after the Territory-wide strike was over and nolo contendere pleas accepted to misdemeanor assault and battery charges.

That during the pineapple strike, 83 members of the union were arrested; that the charges were dropped, after the strike, for lack of evidence. Appellees introduced evidence to show that these arrests were made on the defendants in the case held for five hours purportedly for violations of the unlawful assembly and riot act, and that finally a charge of obstructing the highway was made and dropped after the strike for lack of evidence.

That the mere existence of the statute has been used by Territorial courts to justify sweeping injunctions against peaceful picketing except as limited to three.

That excessive bail was exacted in these cases; that mass arrests were made in many instances where no evidence of even presence at the scene of the alleged incident existed, other than pictures concededly taken at the scene both before and after the incidents occurred; that the reported cases indicated that the unlawful assembly and riot statutes had been used only against labor while engaged in labor disputes, since Hawaii became a part of the United States.

> . . . The 1946 sugar strike commenced on September 1, 1946 and lasted until November 19, 1946, except at Pioneer Mill Company, Lahaina, Maui, where it continued until January 2, 1947 because that company discharged for purported violations of its house rules ten of its employees upon their being charged with unlawful assembly, riot and conspiracy. . . .

Surely, the breaking of one strike—the pineapple strike—by the mass arrests under these statutes and the prevention of a strike to improve conditions of members of the union engaged in the longshore industry standing alone are sufficient to justify a finding of irreparable injury.

These strikes were lawful strikes protected by federal labor laws. They were not comparable in any way to the unlawful work stoppages in *International Union v. Wisconsin Board,* 336 U. S. 245. They affected not only the comparatively few members implicated in trivial violations of law but all of the union's 30,000 members on whose behalf the action was brought.

Bad Faith in Prosecution Constitutes Exceptional Circumstances Justifying Injunction

The Court likewise rejected the holding of the District Court that bad faith in criminal prosecutions constitutes in law an exceptional circumstance justifying the injunction granted. As pointed out

above, the United States Supreme Court in *Screws v. United States, supra,* held that bad motives and abuse of power under color of law on the part of law enforcement officers justified conviction under the criminal conspiracy sections of the Civil Rights Act. *A fortiori,* it would constitute grounds for injunction under the civil remedy provision.

In *McShane v. Maldoven, supra,* the United States Court of Appeals for the Sixth Circuit held that a complaint for damages under the Civil Rights Act states a cause of action where it alleged that state officers and others combined to deprive appellant of rights secured by the Fourteenth Amendment by unlawfully arresting and imprisoning her and subjecting her to a fraudulent criminal trial under color of the laws of Michigan.

And in *Snowden v. Hughes,* 321 U. S. 1, the Supreme Court stated that a showing of wilful discrimination in the enforcement of state law, fair on its face, constituted denial of equal protection for which redress could be sought under the Civil Rights Act. *A fortiori* discrimination under an invalid law would likewise. See also, *Burt v. City of N. Y.,* 156 F.(2d) 791.

Finding of Bad Faith is Supported by Substantial Evidence

This Court likewise rejected the finding of the District Court that on the basis of the record before it, the criminal prosecutions were carried on by ap-

pellants for the purpose of attack upon a labor movement rather than for the ends of justice. This conclusion of fact was reached, not only on the basis of the enumeration of facts recited by this Court in its opinion, but on the basis of the whole record.

The conclusion of bad faith seems inescapable when 75 persons are indicted for a 20-year felony as a result of an incident where police officers present read the petty misdemeanor statute prohibiting loitering, congratulated the people present on wanting order and stated that four or five might be charged with loitering to make a test of that act!

The conclusion of bad faith would seem to be justified solely on the facts surrounding the return of indictment. Seventy-five working men were indicted by a grand jury composed in direct contravention of clearly defined principles laid down by the United States Supreme Court, returned at a time when the federal court had enjoined the submission of facts to the same grand jury in Civil 828 under identical facts and circumstances, including its illegal composition.

It is respectfully submitted that the District Court's findings of fact of exceptional circumstances are supported by substantial evidence and that its conclusion of law that these exceptional circumstances warranted the issuance of the injunctions granted.

Dated: Honolulu, T.H., April 25, 1951.

Respectfully submitted,

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By .....
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I hereby certify that the within Petition for Rehearing is not interposed for purposes of delay.

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